

**LETTER OPINION
2002-L-14**

February 27, 2002

Mr. Stuart Larson
Traill County State's Attorney
PO Box 847
Hillsboro, ND 58045-0847

Dear Mr. Larson:

You ask whether a county commission may expend funds from the county road fund to purchase a pickup truck. Your specific question is whether a pickup truck is road machinery.

Section 24-05-02, N.D.C.C., provides:

24-05-02. Fund - How expended. The county road fund created by section 24-05-01 may be expended only for road machinery and for grading, ditching, and surfacing, in proper form and condition for public travel, such highways or parts of highways, howsoever established, as constitute the principal thoroughfares of the county, communicating with shipping points and marketplaces resorted to by inhabitants of the county, for which the means otherwise provided, in the opinion of the board of county commissioners, are not sufficient.

Unless defined by the code, the meaning of a statute is to be determined from the ordinary and commonly understood language of the statute. Kim-Go v. J.P. Furlong Enterprises, Inc., 460 N.W.2d 694, 696 (N.D. 1990).

Road machinery is not defined in the code. Road means "[a]n open way, generally public, for the passage of vehicles" The American Heritage Dictionary 1066 (2d coll. ed. 1991). See also, N.D.C.C. § 24-01-01.1(42) (definition of roadway). "Machinery" means "[m]achines or machine parts collectively." The American Heritage Dictionary 751 (2d coll. ed. 1991). "Machine" means "[a] system, usually of rigid bodies, formed and connected to . . . transmit, and direct applied forces . . . to accomplish . . . work." Id.

This office has previously taken a common sense approach when interpreting N.D.C.C. § 24-05-02. 1997 N.D. Op. Att'y Gen. L-162. In that opinion, the Attorney General determined that the general purpose of the county road fund is to improve the highways in the county. Id. Because functional machinery is necessary to improve highways, the authority to expend funds "for road machinery" includes the authority to spend funds to maintain the machinery. Id. In a prior opinion this office stated that it was common knowledge that a highway contractor's vehicles used for working on highway construction projects include pickups. Letter from Attorney General Allen Olson to Ralph Wood (Mar. 8, 1973). The use of pickup trucks in the performance of highway roadwork is common. The purchase of a pickup for use in constructing and maintaining roads with county road funds would be consistent with the general purpose of the fund which is to improve the highways in the county. It is my opinion that a pickup truck to be used for constructing and maintaining roads is road machinery under N.D.C.C. § 24-05-02 and that the county commission can expend funds from the county road fund to purchase one.

Sincerely,

Wayne Stenehjem
Attorney General

tam/vkk